

IN THE UNITED STATES DISTRICT COURT, SOUTHERN DISTRICT, INDIANA

DONALD RAY JOHNSON JR.

vs.

1:21-cv-00209-JPH-DML

MICHAEL SOJKA

FILED**01/25/2021**U.S. DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
Roger A.G. Sharpe, ClerkCOMPLAINT WITH JURY DEMAND

This is a civil rights action filed by plaintiff for damages and injunctive relief under the 14th Amendment, 42 USC § 1983, 4th Amendment under federal law. Article 1 § 11 of the Indiana Constitution.

JURISDICTION

1. The court has jurisdiction over plaintiffs claims of violations of federal constitutional rights under 42 USC §§ 1331 (1), and 1343.
2. The court has supplemental jurisdiction over plaintiffs state law claims under 28 USC § 1367.

PARTIES

3. The plaintiff Donald Ray Johnson Jr. hereinafter "Don"

- (3 cont'd) was at all times relevant a citizen of the United States and a resident of the state of Indiana.
4. The defendant Michael Sojka hereinafter "Mike" was at all times relevant an officer of the Indianapolis Metropolitan Police Department I.D.# 32113. This defendant is being sued in his official and personal capacity.
5. The defendant has acted and continues to act under color of state law at all times relevant to this complaint.

FACTS

6. On Thursday August 30th, 2018 Don was traveling down Dearborn St. in Indianapolis Indiana.
7. When Don noticed that a police car was behind him with emergency lights on he stopped the car he was driving, in order to comply with law enforcement.
8. When Mike approached the drivers side window of the car, Don complied with the request for identification while ~~knowing~~ and informing Mike that he (Don) was an unlicensed driver. Don was on the phone with his mother, who was 12 blocks away, and informed her of the stop and that she would need to drive the car because of the stop. She arrived on the scene within 3-4 minutes and before Mike requested Don to exit the car.

9. Immediately Mike began patting down Don and then the car after Don stepped out according to Mike's commands. The search of the car and the pat-down of Don was done without any consent and Don was not under arrest.
10. Before the search, under the pretext of an inventory search, Don's mother, witnessed her son being patted down and the inventory search although she was a licensed driver who reasonably could have driven the car and thus eliminated the need for an inventory search.
11. Officer Mike never smelled any pot, or alcohol, never suspected Don of committing a felony on foot, or in the car and the impoundment was only a treat as the vehicle was never towed. Mike never made an inventory, never returned personal items, and Mike performed his own inventory search without a warrant.
12. Upon the search drugs were found by Mike and as a result of the warrantless search Don was prosecuted with the drugs as evidence. Absent the evidence Don would have no legal responsibilities which include economic realities.
13. The proper procedure for obtaining a warrant to search Don's person and the car he was driving was available to Mike

(13 cont'd) under the proper circumstances.

14. Defendant Mike had an obligation under the 4th Amendment to not illegally search and seize Don and the effects of the car he was driving.

15. As a direct result of Mikes failure to adhere to state law limits on Mikes actions. Mike has caused Don to become subject to the penal system which includes involuntary servitude.

16. Mike being aware of his limits and Dons privileges, chose to ignore the limits of his power and being totally indifferent to Dons Mother being on the scene as a licensed driver, totally indifferent to Dons involuntary servitude as a result of a criminal conviction, and totally indifferent to the injury imposed on Don and his family continued in the course of conduct which is condemned under state and federal law.

RELIEF REQUESTED

17. The actions of Mike in ignoring standard Police Procedures which must be consistent with federal and State law, was done maliciously and sadistically with out regard of Dons right to be free from unreasonable search constituted a violation of the 4th and 14th Amendments of the federal constitution and Article 1 §11 of the Indiana Constitution.
18. The actions of defendant Mike in using force or threats of force against plaintiff Don without need or provocation constituted the tort of assault and battery under the law of Indiana.
19. The actions of defendant Mike under the circumstances had the result of the fruit of the poisonous tree evidence being the sole nexus to Dons conviction resulting in unlawful detention because absent the bad-fruit there is no evidence to support prosecution of Don.

WHEREFORE, plaintiff request that the court grant the following:

- A. Issue a declaratory judgment stating that the evidence found by Mike is poison fruit; Mikes failure to allow the licensed driver on the scene of alleged traffick stop constituted a seizure.

B. Issue an injunction ordering defendant ~~to~~ turnover or his agents to:

1. Immediately turnover all personal items including cash to Don or his agent taken unlawfully by Mike.

2. Immediately suppress all fruits of the poisonous tree.

C. Award Compensatory damages:

1. \$100,000 against defendant Mike for physical assault and battery as a result of Mike's actions.

2. \$Amount to be determined against defendant Mike for the punishment, including deprivation of liberty and amenities, emotional injury from involuntary servitude, denial of due process before the search, and in connection with evidence employed in the prosecution of Don.

D. Award Punitive Damages

1. To be determined.

VERIFICATION

I. Donald Ray Johnson Jr. declare under the penalty of perjury that the foregoing is true and correct.

Executed on January 9th 2021

Signed by Don Johnson Plaintiff P.O. Sec.